

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
(Cincinnati)**

AMICUS MIAMI OF OHIO, LLC

Plaintiff,

v.

HEATHER HOELZER KACACHOS

And

THOMAS KACACHOS

Defendants.

Case No. 1:22-cv-355

Judge Matthew W. McFarland

Magistrate Judge Karen L. Litkovitz

**JOINT MOTION FOR LEAVE TO FILE MEMORANDUM IN SUPPORT
IN EXCESS OF PAGE LIMITATIONS**

Plaintiff Amicus Miami of Ohio, LLC (“Amicus”) and Defendants Heather Hoelzer Kacachos’s and Thomas Kacachos’s (collectively “Defendants”) hereby move the Court for leave to file their respective Memorandum in Support of a Motion for Judgment on the Pleadings, and any responsive briefings, in excess of the Court’s page limitations. Plaintiff’s counsel has met and conferred with Defendants’ counsel, and all Parties have agreed to consent to a waiver of page limits and support this Motion. The reasons for this Motion are fully set forth in the attached Memorandum in Support. A proposed order is also enclosed herewith.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Plaintiff Amicus Miami of Ohio, LLC (“Plaintiff”) and Defendants Heather Hoelzer Kachos and Thomas Kachos (collectively “Defendants” and together with “Plaintiff” the “Parties”) respectfully request this Court grant them leave to file their respective Memorandum in Support of a Motion for Judgment on the Pleadings, and any responsive briefings, in excess of the Court’s page limitations under Local Civil Rule 7.2(a)(3) and the Standing Order Regarding Procedures in Civil Cases III(A)(4), for the following reasons:

1. On October 18, 2022, Plaintiff’s counsel notified both the Court and opposing counsel that it intended to move for judgment on the pleadings.

2. Plaintiff anticipates filing a Motion for Judgment on the Pleadings on or before November 28, 2022 and requests leave to file a memorandum in support of the motion in excess of the twenty-page limitation. Specifically, Plaintiff requests no more than ten (10) additional pages.

3. Defendants also anticipate filing a Motion for Judgment on the Pleadings in the coming weeks and request leave to file a memorandum in support of their motion in excess of the twenty-page limitation. Specifically, Defendants request no more than ten (10) additional pages.

4. Plaintiff and Defendants request leave to file their responsive brief(s) to any forthcoming Motion for Judgment on the Pleadings in excess of the twenty-page limitation. The parties do not anticipate needing more than ten (10) additional pages.

5. Plaintiff’s Amended Verified Complaint includes claims for specific performance, damages, and claims to recover other costs in response to Defendants Heather Hoelzer Kachos’s and Thomas Kachos’s (collectively “Defendants”) breaches of the Purchase and Sale Agreement (“PSA”). *See generally* Pl.’s Am. Verified Compl., Dkt. 22. Accordingly, Plaintiff’s Amended

Verified Complaint alleges the following four counts: (1) breach of contract; (2) anticipatory repudiation of the contract; (3) breach of the duty of good faith and fair dealing; and (4) promissory estoppel. *See generally* Defs.'s Answer to Pl.'s Am. Verified Compl. and Countercls., Dkt. 24.

6. On July 29, 2022, Defendants filed Counterclaims for the following three counts: (1) declaratory judgment pursuant to 28 U.S.C. § 2201; (2) breach of contract; and (3) bad faith/frivolous conduct.

7. Both Parties anticipate moving for judgment on the pleadings on all claims in Plaintiff's Amended Verified Complaint and on Defendants' Counterclaims.

8. The Parties request leave to file their respective Memorandum in Support, and any responsive briefings, in excess of twenty pages so that they can succinctly explain relevant facts related to the formation of the PSA; outline the nuance of the PSA's provisions; underscore the Parties' actions leading up to the dispute; and appropriately address Plaintiff's five claims and Defendants' three counterclaims in an orderly, clear, and complete manner.

9. Pursuant to the local rules, Plaintiff and Defendants will include a table of contents and a summary with any of their respective Memorandum of Support or other responsive briefings that are in excess of twenty-pages.

10. On November 22, 2022, Plaintiff sought the consent of Defendants prior to filing this Motion pursuant to S.D. Ohio Civ. R. 7.3. The Parties' counsel have met and conferred in the submission of this Motion, and all Parties have agreed to consent to a waiver of page limits in excess of twenty-pages for any dispositive motions for judgment on the pleadings and any responsive briefings thereto.

WHEREFORE, Plaintiff and Defendants respectfully request leave to file their respective Memorandum in Support of a Motion for Judgment on the Pleadings, and any responsive briefings, in excess of twenty pages, but not to exceed ten (10) additional pages, for the reasons set out herein.

Respectfully submitted,

/s/ Edward P. Akin

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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2022 the foregoing was filed electronically with the Clerk of Court using the CM/ECF system and notice of this filing will be sent to all attorneys of record by operation of the Court's electronic filing system.

/s/ Aneca E. Lasley

Aneca E. Lasley